

AN ACT in relation to criminal law.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The Criminal Code of 1961 is amended by
changing Section 31-1a as follows:

(720 ILCS 5/31-1a) (from Ch. 38, par. 31-1a)

Sec. 31-1a. Disarming a peace officer or correctional institution employee. A person who, without the consent of a peace officer or correctional institution employee as defined in subsection (b) of Section 31-1, takes or attempts to take a weapon from ~~knowingly-disarms~~ a person known to him or her to be a peace officer or correctional institution employee, while the peace officer or correctional institution employee is engaged in the performance of his or her official duties ~~by--taking--a--firearm--from--the--person--of--the--peace--officer~~ or from an area within the peace officer's or correctional institution employee's immediate presence ~~is without the peace-officer's-consent-shall-be~~ guilty of a Class 2 felony.

(Source: P.A. 84-181.)

Section 10. The Unified Code of Corrections is amended by changing Sections 3-3-2 and 5-5-5 and adding Article 5.5 to Chapter V as follows:

(730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)

Sec. 3-3-2. Powers and Duties.

(a) The Parole and Pardon Board is abolished and the term "Parole and Pardon Board" as used in any law of Illinois, shall read "Prisoner Review Board." After the effective date of this amendatory Act of 1977, the Prisoner Review Board shall provide by rule for the orderly transition

of all files, records, and documents of the Parole and Pardon Board and for such other steps as may be necessary to effect an orderly transition and shall:

(1) hear by at least one member and through a panel of at least 3 members decide, cases of prisoners who were sentenced under the law in effect prior to the effective date of this amendatory Act of 1977, and who are eligible for parole;

(2) hear by at least one member and through a panel of at least 3 members decide, the conditions of parole and the time of discharge from parole, impose sanctions for violations of parole, and revoke parole for those sentenced under the law in effect prior to this amendatory Act of 1977; provided that the decision to parole and the conditions of parole for all prisoners who were sentenced for first degree murder or who received a minimum sentence of 20 years or more under the law in effect prior to February 1, 1978 shall be determined by a majority vote of the Prisoner Review Board;

(3) hear by at least one member and through a panel of at least 3 members decide, the conditions of mandatory supervised release and the time of discharge from mandatory supervised release, impose sanctions for violations of mandatory supervised release, and revoke mandatory supervised release for those sentenced under the law in effect after the effective date of this amendatory Act of 1977;

(4) hear by at least 1 member and through a panel of at least 3 members, decide cases brought by the Department of Corrections against a prisoner in the custody of the Department for alleged violation of Department rules with respect to good conduct credits pursuant to Section 3-6-3 of this Code in which the Department seeks to revoke good conduct credits, if the

amount of time at issue exceeds 30 days or when, during any 12 month period, the cumulative amount of credit revoked exceeds 30 days except where the infraction is committed or discovered within 60 days of scheduled release. In such cases, the Department of Corrections may revoke up to 30 days of good conduct credit. The Board may subsequently approve the revocation of additional good conduct credit, if the Department seeks to revoke good conduct credit in excess of thirty days. However, the Board shall not be empowered to review the Department's decision with respect to the loss of 30 days of good conduct credit for any prisoner or to increase any penalty beyond the length requested by the Department;

(5) hear by at least one member and through a panel of at least 3 members decide, the release dates for certain prisoners sentenced under the law in existence prior to the effective date of this amendatory Act of 1977, in accordance with Section 3-3-2.1 of this Code;

(6) hear by at least one member and through a panel of at least 3 members decide, all requests for pardon, reprieve or commutation, and make confidential recommendations to the Governor;

(7) comply with the requirements of the Open Parole Hearings Act; and

(8) hear by at least one member and, through a panel of at least 3 members, decide cases brought by the Department of Corrections against a prisoner in the custody of the Department for court dismissal of a frivolous lawsuit pursuant to Section 3-6-3(d) of this Code in which the Department seeks to revoke up to 180 days of good conduct credit, and if the prisoner has not accumulated 180 days of good conduct credit at the time of the dismissal, then all good conduct credit

accumulated by the prisoner shall be revoked; and-

(9) hear by at least 3 members, and, through a panel of at least 3 members, decide whether to grant certificates of relief from disabilities or certificates of good conduct as provided in Article 5.5 of Chapter V.

(a-5) The Prisoner Review Board, with the cooperation of and in coordination with the Department of Corrections and the Department of Central Management Services, shall implement a pilot project in 3 correctional institutions providing for the conduct of hearings under paragraphs (1) and (4) of subsection (a) of this Section through interactive video conferences. The project shall be implemented within 6 months after the effective date of this amendatory Act of 1996. Within 6 months after the implementation of the pilot project, the Prisoner Review Board, with the cooperation of and in coordination with the Department of Corrections and the Department of Central Management Services, shall report to the Governor and the General Assembly regarding the use, costs, effectiveness, and future viability of interactive video conferences for Prisoner Review Board hearings.

(b) Upon recommendation of the Department the Board may restore good conduct credit previously revoked.

(c) The Board shall cooperate with the Department in promoting an effective system of parole and mandatory supervised release.

(d) The Board shall promulgate rules for the conduct of its work, and the Chairman shall file a copy of such rules and any amendments thereto with the Director and with the Secretary of State.

(e) The Board shall keep records of all of its official actions and shall make them accessible in accordance with law and the rules of the Board.

(f) The Board or one who has allegedly violated the conditions of his parole or mandatory supervised release may

require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under investigation or hearing. The Chairman of the Board may sign subpoenas which shall be served by any agent or public official authorized by the Chairman of the Board, or by any person lawfully authorized to serve a subpoena under the laws of the State of Illinois. The attendance of witnesses, and the production of documentary evidence, may be required from any place in the State to a hearing location in the State before the Chairman of the Board or his designated agent or agents or any duly constituted Committee or Subcommittee of the Board. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the circuit courts of the State, and witnesses whose depositions are taken and the persons taking those depositions are each entitled to the same fees as are paid for like services in actions in the circuit courts of the State. Fees and mileage shall be vouchered for payment when the witness is discharged from further attendance.

In case of disobedience to a subpoena, the Board may petition any circuit court of the State for an order requiring the attendance and testimony of witnesses or the production of documentary evidence or both. A copy of such petition shall be served by personal service or by registered or certified mail upon the person who has failed to obey the subpoena, and such person shall be advised in writing that a hearing upon the petition will be requested in a court room to be designated in such notice before the judge hearing motions or extraordinary remedies at a specified time, on a specified date, not less than 10 nor more than 15 days after the deposit of the copy of the written notice and petition in the U.S. mails addressed to the person at his last known address or after the personal service of the copy of the notice and petition upon such person. The court upon the

filing of such a petition, may order the person refusing to obey the subpoena to appear at an investigation or hearing, or to there produce documentary evidence, if so ordered, or to give evidence relative to the subject matter of that investigation or hearing. Any failure to obey such order of the circuit court may be punished by that court as a contempt of court.

Each member of the Board and any hearing officer designated by the Board shall have the power to administer oaths and to take the testimony of persons under oath.

(g) Except under subsection (a) of this Section, a majority of the members then appointed to the Prisoner Review Board shall constitute a quorum for the transaction of all business of the Board.

(h) The Prisoner Review Board shall annually transmit to the Director a detailed report of its work for the preceding calendar year. The annual report shall also be transmitted to the Governor for submission to the Legislature.

(Source: P.A. 90-14, eff. 7-1-97; 91-798, eff. 7-9-00; 91-946, eff. 2-9-01.)

(730 ILCS 5/5-5-5) (from Ch. 38, par. 1005-5-5)

Sec. 5-5-5. Loss and Restoration of Rights.

(a) Conviction and disposition shall not entail the loss by the defendant of any civil rights, except under this Section and Sections 29-6 and 29-10 of The Election Code, as now or hereafter amended.

(b) A person convicted of a felony shall be ineligible to hold an office created by the Constitution of this State until the completion of his sentence.

(c) A person sentenced to imprisonment shall lose his right to vote until released from imprisonment.

(d) On completion of sentence of imprisonment or upon discharge from probation, conditional discharge or periodic

imprisonment, or at any time thereafter, all license rights and privileges granted under the authority of this State which have been revoked or suspended because of conviction of an offense shall be restored unless the authority having jurisdiction of such license rights finds after investigation and hearing that restoration is not in the public interest. This paragraph (d) shall not apply to the suspension or revocation of a license to operate a motor vehicle under the Illinois Vehicle Code.

(e) Upon a person's discharge from incarceration or parole, or upon a person's discharge from probation or at any time thereafter, the committing court may enter an order certifying that the sentence has been satisfactorily completed when the court believes it would assist in the rehabilitation of the person and be consistent with the public welfare. Such order may be entered upon the motion of the defendant or the State or upon the court's own motion.

(f) Upon entry of the order, the court shall issue to the person in whose favor the order has been entered a certificate stating that his behavior after conviction has warranted the issuance of the order.

(g) This Section shall not affect the right of a defendant to collaterally attack his conviction or to rely on it in bar of subsequent proceedings for the same offense.

(h) No application for any license specified in subsection (i) of this Section granted under the authority of this State shall be denied by reason of an eligible offender who has obtained a certificate of relief from disabilities, as defined in Article 5.5 of this Chapter, having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when the finding is based upon the fact that the applicant has previously been convicted of one or more criminal offenses, unless:

(1) there is a direct relationship between one or more of the previous criminal offenses and the specific license sought; or

(2) the issuance of the license would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

In making such a determination, the licensing agency shall consider the following factors:

(1) the public policy of this State, as expressed in Article 5.5 of this Chapter, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses;

(2) the specific duties and responsibilities necessarily related to the license being sought;

(3) the bearing, if any, the criminal offenses or offenses for which the person was previously convicted will have on his or her fitness or ability to perform one or more such duties and responsibilities;

(4) the time which has elapsed since the occurrence of the criminal offense or offenses;

(5) the age of the person at the time of occurrence of the criminal offense or offenses;

(6) the seriousness of the offense or offenses;

(7) any information produced by the person or produced on his or her behalf in regard to his or her rehabilitation and good conduct, including a certificate of relief from disabilities issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified in the certificate; and

(8) the legitimate interest of the licensing agency in protecting property, and the safety and welfare of specific individuals or the general public.

(i) A certificate of relief from disabilities shall be

issued only for a license or certification issued under the following Acts:

(1) the Animal Welfare Act; except that a certificate of relief from disabilities may not be granted to provide for the issuance or restoration of a license under the Animal Welfare Act for any person convicted of violating Section 3, 3.01, 3.02, 3.03, 3.03-1, or 4.01 of the Humane Care for Animals Act or Section 26-5 of the Criminal Code of 1961;

(2) the Illinois Athletic Trainers Practice Act;

(3) the Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985;

(4) the Boiler and Pressure Vessel Repairer Regulation Act;

(5) the Professional Boxing Act;

(6) the Illinois Certified Shorthand Reporters Act of 1984;

(7) the Illinois Farm Labor Contractor Certification Act;

(8) the Interior Design Title Act;

(9) the Illinois Professional Land Surveyor Act of 1989;

(10) the Illinois Landscape Architecture Act of 1989;

(11) the Marriage and Family Therapy Licensing Act;

(12) the Private Employment Agency Act;

(13) the Professional Counselor and Clinical Professional Counselor Licensing Act;

(14) the Real Estate License Act of 2000; and

(15) the Illinois Roofing Industry Licensing Act.

(Source: P.A. 86-558.)

(730 ILCS 5/Chap. V, Art. 5.5 heading new)

ARTICLE 5.5. DISCRETIONARY RELIEF FROM FORFEITURES AND

DISABILITIES AUTOMATICALLY IMPOSED BY LAW

(730 ILCS 5/5-5.5-5 new)

Sec. 5-5.5-5. Definitions and rules of construction. In this Article:

"Eligible offender" means a person who has been convicted of a crime or of an offense that is not a crime of violence as defined in Section 2 of the Crime Victims Compensation Act, a Class X or a nonprobationable offense, or a violation of Article 11 or Article 12 of the Criminal Code of 1961, but who has not been convicted more than once of a felony.

"Felony" means a conviction of a felony in this State, or of an offense in any other jurisdiction for which a sentence to a term of imprisonment in excess of one year, was authorized.

For the purposes of this Article the following rules of construction apply:

(i) two or more convictions of felonies charged in separate counts of one indictment or information shall be deemed to be one conviction;

(ii) two or more convictions of felonies charged in 2 or more indictments or informations, filed in the same court prior to entry of judgment under any of them, shall be deemed to be one conviction; and

(iii) a plea or a verdict of guilty upon which a sentence of probation, conditional discharge, or supervision has been imposed shall be deemed to be a conviction.

(730 ILCS 5/5-5.5-10 new)

Sec. 5-5.5-10. Certificate of relief from disabilities.

(a) A certificate of relief from disabilities does not, however, in any way prevent any judicial proceeding, administrative, licensing, or other body, board, or authority

from relying upon the conviction specified in the certificate as the basis for the exercise of its discretionary power to suspend, revoke, or refuse to issue or refuse to renew any license, permit, or other authority or privilege.

(b) A certificate of relief from disabilities shall not limit or prevent the introduction of evidence of a prior conviction for purposes of impeachment of a witness in a judicial or other proceeding where otherwise authorized by the applicable rules of evidence.

(730 ILCS 5/5-5.5-15 new)

Sec. 5-5.5-15. Certificates of relief from disabilities issued by courts.

(a) Any circuit court of this State may, in its discretion, issue a certificate of relief from disabilities to an eligible offender for a conviction that occurred in that court if the court imposed a sentence other than one executed by commitment to an institution under the Department of Corrections. The certificate may be issued (i) at the time sentence is pronounced, in which case it may grant relief from disabilities, or (ii) at any time thereafter, in which case it shall apply only to disabilities.

(b) The certificate may not be issued by the court unless the court is satisfied that:

(1) the person to whom it is to be granted is an eligible offender, as defined in Section 5-5.5-5;

(2) the relief to be granted by the certificate is consistent with the rehabilitation of the eligible offender; and

(3) the relief to be granted by the certificate is consistent with the public interest.

(c) If a certificate of relief from disabilities is not issued at the time sentence is pronounced it shall only be issued thereafter upon verified application to the court. The

court may, for the purpose of determining whether the certificate shall be issued, request the probation or court services department to conduct an investigation of the applicant. Any probation officer requested to make an investigation under this Section shall prepare and submit to the court a written report in accordance with the request.

(d) Any court that has issued a certificate of relief from disabilities may at any time issue a new certificate to enlarge the relief previously granted provided that the provisions of clauses (1) through (3) of subsection (b) of this Section apply to the issuance of any such new certificate.

(e) Any written report submitted to the court under this Section is confidential and may not be made available to any person or public or private agency except if specifically required or permitted by statute or upon specific authorization of the court. However, it shall be made available by the court for examination by the applicant's attorney, or the applicant himself or herself, if he or she has no attorney. In its discretion, the court may except from disclosure a part or parts of the report that are not relevant to the granting of a certificate, or sources of information which have been obtained on a promise of confidentiality, or any other portion of the report, disclosure of which would not be in the interest of justice. The action of the court excepting information from disclosure shall be subject to appellate review. The court, in its discretion, may hold a conference in open court or in chambers to afford an applicant an opportunity to controvert or to comment upon any portions of the report. The court may also conduct a summary hearing at the conference on any matter relevant to the granting of the application and may take testimony under oath.

(730 ILCS 5/5-5.5-20 new)

Sec. 5-5.5-20. Certificates of relief from disabilities issued by the Prisoner Review Board.

(a) The Prisoner Review Board shall have the power to issue a certificate of relief from disabilities to:

(1) any eligible offender who has been committed to an institution under the jurisdiction of the Department of Corrections. The certificate may be issued by the Board at the time the offender is released from the institution under the conditions of parole or mandatory supervised release or at any time thereafter;
or

(2) any eligible offender who resides within this State and whose judgment of conviction was rendered by a court in any other jurisdiction.

(b) If the Prisoner Review Board has issued a certificate of relief from disabilities, the Board may at any time issue a new certificate enlarging the relief previously granted.

(c) The Prisoner Review Board may not issue any certificate of relief from disabilities under subsections (a) or (b), unless the Board is satisfied that:

(1) the person to whom it is to be granted is an eligible offender, as defined in Section 5-5.5-5;

(2) the relief to be granted by the certificate is consistent with the rehabilitation of the eligible offender; and

(3) the relief to be granted by the certificate is consistent with the public interest.

(d) Any certificate of relief from disabilities issued by the Prisoner Review Board to an eligible offender, who at time of the issuance of the certificate is under the conditions of parole or mandatory supervised release established by the Board, shall be deemed to be a temporary certificate until such time as the eligible offender is

discharged from parole or mandatory supervised release, and, while temporary, the certificate may be revoked by the Board for violation of the conditions of parole or mandatory supervised release. Revocation shall be upon notice to the parolee or releasee, who shall be accorded an opportunity to explain the violation prior to a decision on the revocation of the certificate. If the certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the offender's parole or mandatory supervised release term.

(e) In granting or revoking a certificate of relief from disabilities, the action of the Prisoner Review Board shall be by unanimous vote of the members authorized to grant or revoke parole or mandatory supervised release.

(f) The certificate may be limited to one or more enumerated disabilities or bars, or may relieve the individual of all disabilities and bars.

(730 ILCS 5/5-5.5-25 new)

Sec. 5-5.5-25. Certificate of good conduct.

(a) A certificate of good conduct may be granted as provided in this Section to an eligible offender as defined in Section 5-5.5-5 of this Code who has demonstrated that he or she has been a law-abiding citizen and is fully rehabilitated.

(b) (i) A certificate of good conduct may not, however, in any way prevent any judicial proceeding, administrative, licensing, or other body, board, or authority from considering the conviction specified in the certificate.

(ii) A certificate of good conduct shall not limit or prevent the introduction of evidence of a prior conviction for purposes of impeachment of a witness in a judicial or other proceeding where otherwise authorized

by the applicable rules of evidence.

(730 ILCS 5/5-5.5-30 new)

Sec. 5-5.5-30. Issuance of certificate of good conduct.

(a) The Prisoner Review Board, or any 3 members of the Board by unanimous vote, shall have the power to issue a certificate of good conduct to any eligible offender previously convicted of a crime in this State, when the Board is satisfied that:

(1) the applicant has conducted himself or herself in a manner warranting the issuance for a minimum period in accordance with the provisions of subsection (c) of this Section;

(2) the relief to be granted by the certificate is consistent with the rehabilitation of the applicant; and

(3) the relief to be granted is consistent with the public interest.

(b) The Prisoner Review Board, or any 3 members of the Board by unanimous vote, shall have the power to issue a certificate of good conduct to any person previously convicted of a crime in any other jurisdiction, when the Board is satisfied that the provisions of paragraphs (1), (2), and (3) of subsection (a) of this Section have been met.

(c) The minimum period of good conduct by the individual referred to in paragraph (1) of subsection (a) of this Section, shall be as follows: if the most serious crime of which the individual was convicted is a misdemeanor, the minimum period of good conduct shall be one year; if the most serious crime of which the individual was convicted is a Class 1, 2, 3, or 4 felony, the minimum period of good conduct shall be 3 years. Criminal acts committed outside the State shall be classified as acts committed within the State based on the maximum sentence that could have been imposed based upon the conviction under the laws of the foreign

jurisdiction. The minimum period of good conduct by the individual shall be measured either from the date of the payment of any fine imposed upon him or her, or from the date of his or her release from custody by parole, mandatory supervised release or commutation or termination of his or her sentence. The Board shall have power and it shall be its duty to investigate all persons when the application is made and to grant or deny the same within a reasonable time after the making of the application.

(d) If the Prisoner Review Board has issued a certificate of good conduct, the Board may at any time issue a new certificate enlarging the relief previously granted.

(e) Any certificate of good conduct by the Prisoner Review Board to an individual who at the time of the issuance of the certificate is under the conditions of parole or mandatory supervised release imposed by the Board shall be deemed to be a temporary certificate until the time as the individual is discharged from the terms of parole or mandatory supervised release, and, while temporary, the certificate may be revoked by the Board for violation of the conditions of parole or mandatory supervised release. Revocation shall be upon notice to the parolee or releasee, who shall be accorded an opportunity to explain the violation prior to a decision on the revocation. If the certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the offender's parole or mandatory supervised release term.

(730 ILCS 5/5-5.5-35 new)

Sec. 5-5.5-35. Effect of revocation; use of revoked certificate.

(a) If a certificate of relief from disabilities is deemed to be temporary and the certificate is revoked, disabilities and forfeitures thereby relieved shall be

reinstated as of the date upon which the person to whom the certificate was issued receives written notice of the revocation. Any such person shall upon receipt of the notice surrender the certificate to the issuing court or Board.

(b) A person who knowingly uses or attempts to use a revoked certificate of relief from disabilities in order to obtain or to exercise any right or privilege that he or she would not be entitled to obtain or to exercise without a valid certificate is guilty of a Class A misdemeanor.

(730 ILCS 5/5-5.5-40 new)

Sec. 5-5.5-40. Forms and filing.

(a) All applications, certificates, and orders of revocation necessary for the purposes of this Article shall be upon forms prescribed under an agreement among the Director of Corrections and the Chairman of the Prisoner Review Board and the Chief Justice of the Supreme Court or his or her designee. The forms relating to certificates of relief from disabilities shall be distributed by the Director of the Division of Probation Services and forms relating to certificates of good conduct shall be distributed by the Chairman of the Prisoner Review Board.

(b) Any court or board issuing or revoking any certificate under this Article shall immediately file a copy of the certificate or of the order of revocation with the Director of State Police.

(730 ILCS 5/5-5.5-45 new)

Sec. 5-5.5-45. Certificate not to be deemed to be a pardon. Nothing contained in this Article shall be deemed to alter or limit or affect the manner of applying for pardons to the Governor, and no certificate issued under this Article shall be deemed or construed to be a pardon.

(730 ILCS 5/5-5.5-50 new)

Sec. 5-5.5-50. Report. The Department of Professional Regulation shall report to the General Assembly by November 30 of each year, for each occupational licensure category, the number of licensure applicants with felony convictions, the number of applicants with certificates of relief from disabilities, the number of licenses awarded to applicants with felony convictions, the number of licenses awarded to applicants with certificates of relief from disabilities, the number of applicants with felony convictions denied licenses, and the number of applicants with certificates of relief from disabilities denied licenses.

Section 99. Effective date. This Act takes effect January 1, 2004.